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ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

21 December 15, 2015


PATRICK OGAWA
ACTING EXECUTIVE OFFICER

December 15, 2015

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

APPROVAL OF AN ORDINANCE AMENDING LOS ANGELES COUNTY CODE TITLE 7 – CHAPTER 7.54 MASSAGE (ALL SUPERVISORIAL DISTRICTS) (3 VOTES)

SUBJECT

Approval to adopt an ordinance amending Los Angeles County Code Title 7 – Chapter 7.54 Massage.

IT IS RECOMMENDED THAT THE BOARD:

Introduce, waive reading, and adopt the attached ordinance (Exhibit A) amending the Los Angeles County Code Title 7 – Chapter 7.54 Massage ("Title 7") to conform to State law.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Assembly Bill (AB) 1147 was signed into law on September 18, 2014, and took effect on January 1, 2015. AB 1147 authorizes local jurisdictions to adopt or enforce any local ordinance regarding licensing, regulating, prohibiting, or permitting an individual, who provides massage for compensation, without an approved California Massage Therapy Council (CAMTC) massage certificate, and allows local jurisdictions to require massage establishments to obtain a business license in order to operate lawfully within their jurisdiction, as long as the local ordinance does not conflict with the California Government Code (GC) Section 51034. While recognizing the authority of a city or county to regulate the business of massage, GC Section 51034 prohibits cities and counties from imposing specific restrictions that conflict with currently accepted standards and practices.

Under Title 7, Chapter 7.54 of the County Code, the County requires massage establishments and

massage technicians to obtain a County Business License to conduct massage within the unincorporated jurisdiction of the County and our contracted cities.

State law guides the jurisdiction of municipalities to regulate massage establishments and their massage staff. Over the last several years, these laws have changed, impacting the Treasurer and Tax Collector's (TTC) ability to regulate massage establishments:

- Senate Bill (SB) 731 was signed into law on September 27, 2008, and became effective September 1, 2009. SB 731 amended the Business and Professions Code (BPC) Section 4600 to prohibit local jurisdictions from requiring that CAMTC-certified technicians obtain a business license.
- AB 619 was signed into law on August 3, 2011, and became effective January 1, 2012. AB 619 further amended various BPC sections commencing with Section 4600 to prohibit local jurisdictions from requiring that massage establishments obtain a business license, if they only employ CAMTC-certified technicians. Massage establishments that employ non-CAMTC-certified technicians could be charged a business license fee, but only as long as the fee was consistent with what was applied to all other businesses and individuals providing professional services, as defined in the California Corporations Code (CC) Section 13401(a) (meaning any type of professional service that may be lawfully rendered only pursuant to a license, certification, or registration authorized by the BPC, the Chiropractic Act, or the Osteopathic Act). As Title 7 has no license requirements for other professionals as defined in the CC Section 13401(a), AB 619 effectively prohibited the TTC from licensing massage establishments.
- AB 1147 was signed into law on September 18, 2014, and became effective January 1, 2015. AB 1147 amended various BPC sections commencing with Section 4600 and it also amended Section 51034 of the Government Code. AB 1147 authorized local jurisdictions to license non CAMTC certified technicians; however, it did not change the restriction on licensing CAMTC-certified technicians. AB 1147 also authorized local jurisdictions to require massage establishments to obtain a business license and adhere to any land use requirements, whether or not they employed only CAMTC-certified technicians.

During the time between the effective dates of AB 619 and AB 1147 (January 1, 2012 to January 1, 2015), the TTC did not actively regulate massage therapy, either through the issuance of new licenses or renewals of licenses previously issued, as the State certification process through the CAMTC became the framework for regulation. As a result, new establishments and technicians may have begun to operate within the County's jurisdiction under that framework. In addition, there may also be establishments that opened outside of that framework or in a location having no permissible land use for massage establishments.

To assist these businesses that opened during the above-referenced time frame, we are working with the Department of Regional Planning (DRP) to address any complications that may arise as a result of land use issues. We will also provide the massage establishments that we previously licensed (approximately 90 establishments) with information regarding the new business license requirements.

In addition, the TTC contacted the CAMTC and provided them a draft of the ordinance amending Title 7.

To align Title 7 with GC Section 51034 and BPC Sections 4600, et seq, the TTC is recommending revisions to Title 7, the most substantive of which are summarized as follows:

- 7.54.010 Definitions – adds that CAMTC means the California Massage Therapy Council, which was created pursuant to the Massage Therapy Act.
- 7.54.060 Employment of Massage Technicians – states that a Massage Technician must be either CAMTC certified or obtain a Los Angeles County Business License to be employed.
- 7.54.080 Site Requirements – clarifies that premises exterior doors must remain unlocked, unless there is only one owner/employee onsite.
- 7.54.200 Massage Technician Defined – clarifies that either a massage practitioner or a massage therapist who is certified by the CAMTC is also a Massage Technician.
- 7.54.210 License Required – states that any Massage Technician must obtain a business license unless they possess a valid and current CAMTC certificate.
- 7.54.260 Clothing Required – states that no massage or massage services may be administered unless the patron is sufficiently covered and the massage technician is dressed in accordance with standards outlined in the GC and the BPC.

These revisions will provide the necessary authority for the TTC to license massage establishments and non-CAMTC-certified massage technicians.

Implementation of Strategic Plan Goals

The recommended actions support Goal 1, Operational Effectiveness/Fiscal Sustainability.

FISCAL IMPACT/FINANCING

There will be no fiscal impact because the business license fee is a cost recovery fee.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

County Counsel has reviewed and approved Exhibit A as to form.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

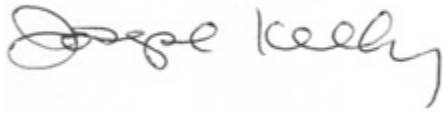
If adopted, the amended ordinance will have a minimal impact on current services provided by the TTC. The TTC licensed massage establishments and massage technicians prior to legislative changes that took effect January 1, 2012. The TTC will use existing resources to resume issuing business licenses for massage.

The Honorable Board of Supervisors

12/15/2015

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Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Joseph Kelly". The signature is fluid and cursive, with the first name "Joseph" written in a more compact, looped style, and the last name "Kelly" written in a more open, cursive style.

Joseph Kelly

Treasurer and Tax Collector

JK:KK:KG:BR:ms

Enclosures

c: Sheriff
Chief Executive Officer
Interim County Counsel
Acting Executive Officer, Board of Supervisors
Department of Consumer and Business Affairs
Department of Regional Planning
Business License Commission